

REMARKS

Summary of the Office Action

Claims 1, 5-6, and 9 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,671,444 to *Oliver* ("Oliver").

Claims 3 and 7 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over *Oliver* in view of U.S. Patent No. 3,029,436 to *Kufel* ("Kufel").

Summary of the Response to the Office Action

Applicant has amended claims 1, 5, 6, and 9. Claims 2, 4, and 8 are cancelled. Claims 1, 3, 5-7, and 9 are presently pending for further consideration.

Rejection Under 35 U.S.C. § 102(b)

Claims 1, 5-6, and 9 stand rejected under 35 U.S.C. § 102(b) as being anticipated by *Oliver*. Applicant respectfully traverses the rejection of claims 1 and 6 as amended.

Newly amended independent claims 1 and 6 have been amended to recite "lower surfaces of upper portions of the next staple and continuing staples of the connected staples are in contact with the upper surface of the pusher, wherein a protrusion surface of the support surface opposed to the leading-end staple, slopes in a driving direction of the driver, and there is no gap between an upper surface of the pusher and the protrusion surface." Thus, *Oliver* fails to teach or suggest at least these features of claims 1 and 6.

In the structure of *Oliver*, the connected staples should be guided on the portion on which the reference numeral 222 is labeled in the figure on page 3 of the Office Action. See also FIG. 1

of *Oliver* showing that the connected staples are fed from a cartridge onto the surface labeled 222 in the below drawing. That is, none of the two portions that the Office Action alleges corresponds with the claimed upper surface is in contact with the lower surface of the next staple (or the lower surfaces of the connected staples). Accordingly, the alleged two portions cannot satisfy the requirements of the claimed upper surface that the “lower surfaces of upper portions of the next staple and continuing staples of the connected staples are in contact with the upper surface of the pusher” and “there is no gap between an upper surface of the pusher and the protrusion surface.”

For at least the above reasons, Applicant respectfully requests that the rejection of claims 1, 5, 6, and 9 (claims 2, 4, and 8 having been cancelled, and claims 5 and 9 depending from claims 1 and 6, respectively) under 35 U.S.C. § 102(b) as being anticipated by *Oliver* be withdrawn.

Claim Rejections Under 35 U.S.C. § 103(a)

Claims 3 and 7 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over *Oliver* in view of *Kufel*. Applicant respectfully traverses the rejection.

Dependent claims 3 and 7 recite that “the driver includes a pair of leg portions that come into contact with both corners of the C-shaped leading-end staple and push out the leading-end staple.” As shown in Figs. 6 and 14 of *Oliver*, there are no “leg portions” on the driver or fastener driving element (22, 212). Section 7 of the June 23, 2008 Office Action also admits these features are not met in *Oliver*. Thus, *Oliver* by itself does not meet this requirement of

claims 3 and 7.

Applicant respectfully asserts that *Kufel* also does not teach at least “wherein the driver includes a pair of leg portions that come into contact with both corners of the C-shaped leading-end staple and push out the leading-end staple,” as recited in claims 3 and 7.

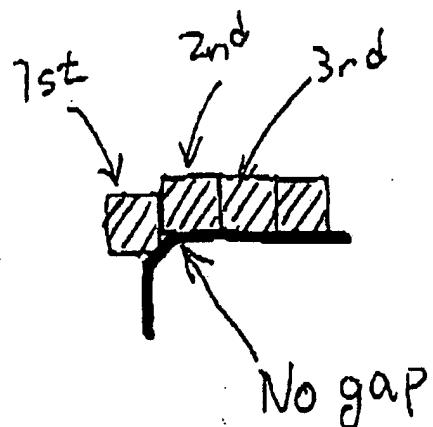
The Office Action misinterprets the *Kufel* specification from col. 2, line 72 through col. 3, line 7. See section 7 of the June 23, 2008 Office Action. The folding arms 32 of *Kufel* are located on the formers adjacent to the driver 22. See Fig. 7 of *Kufel*. Thus, the driver 22 does not have “leg portions that come into contact with both corners of the C-shaped leading-end staple and push out the leading-end staple.” Rather, it is the former that has folding arms 32 to bend the staple into a C-shape before stapling. This is clearly seen in Fig. 7 of *Kufel*. For at least these reasons, Applicant respectfully asserts that the features of claims 3 and 7 are in condition for allowance.

Applicant respectfully asserts that claims 3 and 7 are in condition for allowance. Prompt allowance of claims 3 and 7 is requested.

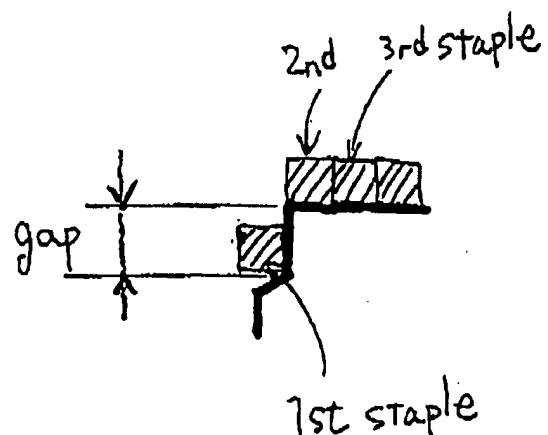
Furthermore, Applicant respectfully submits that in the present invention, as shown in sketch A below, the inclining support surface can contact and support a lower surface of the upper portion of the leading-end staple (first staple) as the first staple is torn off from the second,

third, etc. staples. This prevents the cutting noise in the tearing off step.

SKETCH A



SKETCH B



As shown in sketch B above, with the structure of *Oliver*, the lower surface of the upper

portion of the first staple cannot contact the inclined surface until the first staple is struck by the driver 22 and moves in the driver's moving direction by the length of the gap. Because the lower surface of the upper portion of the first staple cannot contact the inclined surface of *Oliver*, the first staple is already completely torn off before it reaches the inclined surface. *Kufel* does not make up for the deficiencies of *Oliver*. Thus, the structure of *Oliver* and *Kufel* cannot prevent the undesirable cutting noise in the tearing off step.

For at least the above reasons, Applicant respectfully requests that the rejection of claims 3 and 7 under 35 U.S.C. § 103(a) as being unpatentable over *Oliver* and *Kufel* be withdrawn.

CONCLUSION

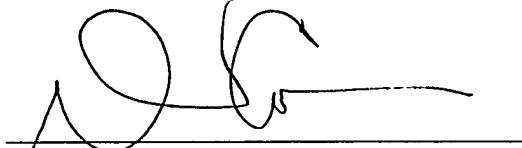
In view of the foregoing, Applicant respectfully requests reconsideration and the timely allowance of the pending claims. Should the Examiner feel that there are any issues outstanding after consideration of this response, the Examiner is invited to contact Applicant's undersigned representative to expedite prosecution.

If there are any other fees due in connection with the filing of this response, please charge the fees to our Deposit Account No. 50-0310. If a fee is required for an extension of time under 37 C.F.R. § 1.136 not accounted for above, such an extension is requested and the fee should also be charged to our Deposit Account.

Respectfully submitted,

MORGAN, LEWIS & BOCKIUS LLP

By:



David E. Connor
Registration No. 59,868

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CUSTOMER NO. 009629
MORGAN, LEWIS & BOCKIUS LLP
1111 Pennsylvania Avenue, N.W.
Washington, D.C. 20004
Telephone: 202.739.3000
Facsimile: 202.739.3001